

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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OCT 16 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Policy and Rules Concerning the )  
Interstate, Interexchange Marketplace )  
Implementation of Section 254(g) of the )  
Communications Act of 1934, As Amended )

CC Docket No. 96-61

To: Chief, Competitive Pricing Division, Common Carrier Bureau

COMMENTS

IT&E Overseas, Inc. ("IT&E"), by its attorneys and pursuant to the Order of the Chief of the Competitive Pricing Division, released on August 14, 1997, in the above-captioned proceeding, hereby submits these comments concerning the rate integration plan of the American Samoa Government ("ASG"), filed on October 1, 1997.

In a Memorandum Opinion and Order, released on July 30, 1997, in the above-captioned proceeding, the Common Carrier Bureau ("Bureau") temporarily suspended the obligation of interexchange carriers ("IXCs"), including IT&E, to provide services on an integrated basis to American Samoa, pending Federal Communications Commission ("FCC" or "Commission") resolution of issues regarding the steps that ASG should be required to take to facilitate the integration of American Samoa into the domestic rate plan. See Memorandum Opinion and Order, CC Docket No. 96-61, ¶ 22 (Com. Car. Bur., released July 30, 1997) ("MO&O"). The Bureau established a comment period that allowed IXCs to submit comments by August 18, 1997, and that also allowed ASG and other interested parties to submit responsive comments by September 5, 1997. Id. ¶ 27. Subsequently, the Bureau's Competitive Pricing Division modified

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the procedural schedule to permit ASG to submit its rate integration plan by October 1, 1997, and also to permit IXCs and other interested parties to submit responsive comments by October 16, 1997. See Order, CC Docket No. 96-61, ¶ 6 (Competitive Pricing Division, released Aug. 14, 1997).

In its rate integration plan, ASG proposes to remain outside the North American Numbering Plan ("NANP"). See ASG Proposed Rate Integration Plan for American Samoa, CC Docket No. 96-61, at 7 (filed Oct. 1, 1997). Rather than implementing the inclusion of American Samoa in the NANP, ASG suggests that IXCs terminating traffic in American Samoa should be required either (1) to modify their billing systems to facilitate treating American Samoa as a domestic point even though it remains outside the NANP; or (2) to terminate calls to American Samoa at basic rate levels that match those of other rate-integrated domestic points, while continuing to treat American Samoa as an international destination for purposes of their billing systems. Id. In addition, ASG declares its intent to establish interstate access charges pursuant to Part 69 of the FCC's rules, but fails to specify any time frame for doing so. Id. at 12-14. ASG also states that it will implement Feature Group D access service "[i]f and when one or more independent IXCs seek to establish a POP [point of presence] in American Samoa for the provision of facilities-based long distance service." Id. at 14.

IT&E believes that the Commission should not require IXCs to integrate rates for calls terminating in American Samoa until (1) American Samoa is included in the NANP, (2) lawful, cost-based access charges are established, and (3) Feature Group D access service is

implemented.<sup>1</sup> The Bureau itself has noted that these measures are crucial to the ability of IXC's to integrate their rates for calls terminating in American Samoa. See MO&O, ¶ 21. Specifically, the Bureau stated that "inclusion of American Samoa in the NANP would help carriers integrate American Samoa into their nationwide service plans, billing systems, and switching mechanisms." Id. The Bureau also found that Feature Group D implementation "would provide subscribers with high-quality equal access to providers of interexchange service serving American Samoa." Id. The Bureau further noted that the "[p]rovision of access services by American Samoa to interexchange carriers on a basis more comparable to such services provided in other parts of the U.S. could help interexchange carriers set rates at integrated levels." Id.

In view of ASG's refusal to bring American Samoa into the NANP and its conditional and indefinite commitments to establish access charges consistent with the FCC's rules and implement Feature Group D access service, none of the essential predicates exist for imposing an obligation upon IXC's to integrate their rates for calls terminating in American Samoa. ASG's proposal to require IXC's to modify their billing systems would impose an undue burden on IXC's that was never contemplated by the Commission when it adopted its rate integration rule.

Moreover, ASG's alternative proposal to require IXC's to change their basic rates levels for

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<sup>1</sup> Regardless of whether ASG adopts any of the measures necessary to facilitate the ability of IXC's to integrate their rates for calls terminating in American Samoa, IT&E nonetheless believes that the FCC's rate integration rule does not prohibit IXC's from terminating calls to U.S. locations, such as American Samoa, at rates that differ from those that apply to calls terminating in other U.S. locations. Indeed, on August 29, 1997, IT&E filed an Application for Review of the Memorandum Opinion and Order of the Bureau, released on July 30, 1997, in the above-captioned proceeding, denying IT&E's right to adopt uniform rate schedules which apply equally to all of IT&E's subscribers, but which may contain rates that vary based on the location to which a call is terminated. See IT&E Application for Review, CC Docket No. 96-61 (filed Aug. 29, 1997). The Commission has not acted upon this Application for Review.

American Samoa to match those of other rate-integrated domestic points simply fails to address the substantial concerns regarding the feasibility of integrating rates for interexchange calls terminating in American Samoa in the absence of the inclusion of American Samoa into the NANP.

Furthermore, IT&E and other IXC's should not be subject to any rate integration requirement with respect to American Samoa until ASG specifies a time frame for establishing cost-based access charges in full conformance with the FCC's rules and until such access charges in fact take effect. Indeed, in its Informal Complaint, filed on July 29, 1997 (FCC File No. IC-97-22328), challenging the lawfulness of the excessive and discriminatory access charges of Micronesian Telecommunications Corporation ("MTC"), IT&E asserted that, without cost-based access charges, a monopoly local exchange carrier has the ability to extract monopoly profits as a result of its control of bottleneck facilities. This exact situation is occurring today in the Commonwealth of the Northern Mariana Islands, where MTC, the monopoly local exchange carrier, continues to impose terminating access charges in excess of \$0.16 per minute. The continued imposition of such non-cost-based access charges allows incumbent local exchange carriers to obtain excessive monopoly profits, distorts the benefits of competition, and imposes an undue burden on IXC's that are subject to the FCC's rate integration rule.

IT&E and other IXC's also should not be subject to any rate integration requirement with respect to American Samoa until ASG unconditionally implements Feature Group D access service without awaiting the entry of a facilities-based IXC with a point of presence in American Samoa. As the Bureau itself has noted, the adoption of measures such as Feature Group D implementation "could promote the provision of competitive services to American Samoa and

stimulate introduction of new services.” MO&O, ¶ 21. Thus, since Feature Group D implementation is intended to foster competition where none may have previously existed, it should not be made contingent upon the existence of competing facilities-based IXC’s originating service from American Samoa.

As the Commission is well aware, carriers such as IT&E serving Guam and the Commonwealth of the Northern Mariana Islands recently have expended substantial resources to bring these offshore points fully within the domestic U.S. telecommunications system, including reconfiguring their networks to implement inclusion of these locations in the NANP, Feature Group D access, and rate integration. In view of these circumstances, it would be inequitable and contrary to Commission policy to require these carriers to extend rate integration to American Samoa when ASG is unwilling to take the steps necessary to participate fully in the U.S. telecommunications market. To the contrary, ASG is asking the Commission to require carriers such as IT&E to reconfigure their networks, rate structures, and billing systems yet again to accommodate an idiosyncratic market that is neither domestic nor international. This clearly runs counter to the Commission’s policies and goals for bringing offshore points fully within the U.S. telecommunications marketplace.

Based on the foregoing, IT&E respectfully requests the Commission to continue to suspend enforcement of any obligation of IXC’s to integrate the rates for calls terminating in

American Samoa, at least until (1) American Samoa is included in the NANP, (2) lawful cost-based access charges are established, and (3) Feature Group D access service is implemented.

Respectfully submitted,

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October 16, 1997

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## **CERTIFICATE OF SERVICE**

I, Elizabeth Dickerson, hereby certify that copies of the foregoing COMMENTS were served upon the following via hand delivery or first class mail, postage prepaid on this 16<sup>th</sup> day of October 1997:

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